

Public Chapter 305

SENATE BILL NO. 913

By Gilbert, Cohen, Person, McNally, Harper, Williams

Substituted for: House Bill No. 1328

By Jackson, McMillan, Bowers, Odom, John DeBerry, Eckles, Brenda Turner

AN ACT To amend Tennessee Code Annotated, Section 33-1-209 and Section 38-6-114, relative to criminal background checks on persons employed to work with or have contact with persons with developmental disabilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 33-1-209, is amended by adding the following language as a new, appropriately designated subsection:

(c)(1) Within nine (9) months of the effective date of this act all organizations which have employees that have been employed by such organization for less than one (1) year and who have direct contact with or direct responsibility for persons with developmental disabilities on either a full- or part-time basis must conduct criminal background checks on such employees and on all new employees who are hired after the effective date of this act to have direct contact with or direct responsibility for persons with developmental disabilities on either a full- or part-time basis. Any such employee who has been with the organization for less than one (1) year shall within such time period supply a fingerprint sample for a criminal background check to be conducted by the Tennessee Bureau of Investigation or the Federal Bureau of Investigation. All new employees who have direct contact with or direct responsibility for persons with developmental disabilities on either a full- or part-time basis hired after the effective date of this act shall, within ten (10) days of beginning employment, supply a fingerprint sample for a criminal background check to be conducted by the Tennessee Bureau of Investigation or the Federal Bureau of Investigation. The organization employing such employee shall retain and have on file reports of such checks.

(2) All applicants for employment with organizations described in subdivision (1) shall be informed that background checks will be conducted. All applicants must list any prior conviction by any local, state, federal, or military court of any felony or any other conviction involving sexual crimes, including but not limited to rape, sexual assault, sexual battery, exhibitionism, voyeurism, or an attempt to commit any of such sexual crimes; homicide or attempted homicide; felonious assault or attempted felonious assault; unlawful breaking or entering; robbery;

burglary; theft; or arson. Further, if the applicant is required to register or has registered with the registry of sexual offenders in accordance with Tennessee Code Annotated, Section 38-6-110, the applicant shall disclose such information.

(3) Any costs incurred by the Tennessee Bureau of Investigation or the Federal Bureau of Investigation in conducting such investigation of applicants shall be paid by the organization requesting such investigation and information. If the background check is conducted by the Tennessee Bureau of Investigation or the Federal Bureau of Investigation, the payment of such costs shall be made in the amounts established in Section 38-6-103.

(4) As used in this subsection and subsection (b) of Section 2, the term "organization(s)" means an organization licensed pursuant to Tennessee Code Annotated, Title 33, Chapter 2, Part 5, which provides services to persons with developmental disabilities through contract with the Division of Mental Retardation Services or intermediate care facilities for persons with mental retardation (ICF/MR).

SECTION 2. Tennessee Code Annotated, Section 38-6-114, is amended by designating the existing language as subsection (a), and by adding the following language to be designated as subsection (b):

(b) The Tennessee Bureau of Investigation, at the request of an organization which has employees who have direct contact with and responsibility for persons with developmental disabilities on either a full- or part-time basis, pursuant to Section 1 of this act, shall receive fingerprint samples from such organization and shall check such prints against records maintained by the Federal Bureau of Investigation to determine if prior criminal convictions exist.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.